

The court incorporates by reference in this paragraph and adopts as the findings and orders of this court the document set forth below. This document has been entered electronically in the record of the United States Bankruptcy Court for the Northern District of Ohio.



Dated: September 23 2010

A blue ink signature of Mary Ann Whipple, written in a cursive style.

Mary Ann Whipple
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

| | | |
|-------------------------|---|------------------------|
| In Re |) | Case No. 10-34172 |
| |) | |
| Christina Marie Atkins, |) | Chapter 7 |
| |) | |
| |) | JUDGE MARY ANN WHIPPLE |
| Debtor(s) |) | |

ORDER RE MOTION TO DISMISS

This matter came before the court for hearing on September 14, 2010, on the Debtor's Motion to Dismiss [Doc. # 11] ("Motion"). The Chapter 7 Trustee and an attorney for Debtor appeared in person at the hearing. Debtor did not appear at the hearing.

Contrary to statements made by Debtor under penalties of perjury in her bankruptcy petition filed on June 16, 2010, Debtor's counsel now states that Debtor did not participate in a credit counseling briefing within 180 days prior to commencement of this case. That is the basis for the requested dismissal.

The court will grant the Motion, however, as stated at the hearing it will do so only if the dismissal is with prejudice under 11 U.S.C. § 349(a) to refiling under Chapter 7 for a period of one year from the date of dismissal and if the issue of the unpaid filing fee is resolved. Debtor has filed an Application to waive payment of the filing fee based on in forma pauperis status. However,

counsel has failed to submit a useable order to the court with which to grant the Application. The submitted order was not useable and was returned to counsel via e-mail on June 18, 2010, with direction to fix the problem with the order. Nothing has been done by counsel thus far to address the problem and the Application and status of the filing fees due herein remains unresolved.

The court will not enter an order of dismissal until the filing fee issue is resolved. If counsel does not submit a useable order within 30 days of the date of this order, the application to waive the fee will be denied for want of prosecution and an order to pay the \$299 in fees due in installments will be entered. In that event, the filing fees will be due even if this case is ultimately dismissed.

For good cause shown,

IT IS ORDERED that Debtor's Motion to Dismiss [Doc. # 11] will be granted by further separate order of the court, with prejudice to commencing another case under Chapter 7 of the Bankruptcy Code for a period of one year, provided, however, the status of the filing fee must first be resolved as set forth above by proper submission of an order on or before on or before **October 25, 2010**.